IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4984 OF 2004.

Shyam Himatrao Karankal. ... Applicant.

Versus.

State of Maharashtra. ... Respondent.

Shri H.E.Palwe for the Applicant.

Ms.M.M.Deshmukh, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 13th October, 2005.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P. for the State.

2. The Applicant is an accused in the Regular Criminal Case No.356 of 2000. On the basis of the version of the defence witness an application was made by the Accused persons for issuing process for commission of offence under sections 143, 147, 149, 337, 338, 427, 323, 504, 506 of the Indian Penal Code against the Complainant (P.W.1 Onkar Pandit Rothe), and P.W.2 Laliteshwar Prabhunarayan Singh. For the reasons recorded in paragraphs 9 and 10, the said application came to be rejected by the learned Magistrate. The Revision Application preferred by the Applicant against the said order has been rejected.

3. After having heard the submissions of the

learned Advocate for the Applicant, I find no reason to interfere. It must be noted that the learned Chief Judicial Magistrate while rejecting the Application made by the accused persons held that the Application does not come within the purview of section 2(d) of the Code of Criminal Procedure, 1973 and therefore, it was not necessary to consider the provisions of section 190 of the said Code. Thus what has been held against the Applicant is that the Application of the accused cannot be said to be a complaint within the meaning of the said Code and it is not held that no offence is made out. Subject to what is stated above, the Application is rejected.

Judge.